

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Investigation by the Department on its own motion into the appropriate regulatory plan to succeed price cap regulation for Verizon New England, Inc. d/b/a Verizon Massachusetts' retail intrastate telecommunications services in the Commonwealth of Massachusetts

DTE 01-31

**MOTION OF AT&T COMMUNICATIONS OF NEW ENGLAND INC.  
TO FILE SURREBUTTAL TESTIMONY IN RESPONSE TO  
THE REBUTTAL TESTIMONY OF WILLIAM E. TAYLOR**

AT&T Communications of New England, Inc. ("AT&T") requests that the Department amend the procedural schedule to allow AT&T to file surrebuttal testimony to respond to: (1) William E. Taylor's mischaracterization of John Mayo's testimony on market analysis; and (2) Dr. Taylor's incorrect analogy to Dr. Mayo's direct testimony in D.P.U. 91-79. Dr. Mayo should have an opportunity to explain how Dr. Taylor has mischaracterized his testimony in this case and misused his testimony in D.P.U. 91-79.

**Argument.**

**I. DR. MAYO SHOULD BE PERMITTED TO RESPOND TO DR. TAYLOR'S MISCHARACTERIZATION OF DR. MAYO'S TESTIMONY ON MARKET ANALYSIS.**

Contrary to Dr. Taylor's testimony, Dr. Mayo never made the ludicrous recommendation that 18,496 separate market studies must be conducted by the Department. Such a suggestion is both infeasible and impractical. In criticizing Verizon for its failure to supply an appropriate market definition, Dr. Mayo states that Verizon's relevant product market, as described in its direct testimony, is too broad because it implicitly encompasses 68 different services. Mayo

Testimony at 27. Dr. Mayo, however, never suggests that “formal studies must be performed for [each of these] 68 different services in each of Verizon MA’s [272] wire centers.” Taylor Testimony at 3, fn 1. Dr. Taylor grossly overstates Dr. Mayo’s critique of Verizon’s “kitchen sink” approach to market definition. Dr. Mayo should have the opportunity to file surrebuttal testimony to clarify the record on this point and to explain with specificity the differences between the analyses that he is recommending and the analyses that Dr. Taylor claims he is recommending.

**II. DR. MAYO SHOULD BE PERMITTED TO EXPLAIN WHY DR. TAYLOR’S USE OF DR. MAYO’S TESTIMONY FROM D.P.U. 91-79 IS INAPPROPRIATE.**

Dr. Taylor makes an incorrect comparison between this proceeding and the D.P.U. 91-79 proceeding which addressed the issue of whether toll services provided in Massachusetts by AT&T faced sufficient competition to allow AT&T pricing flexibility. Taylor Testimony at 7-10. Dr. Taylor also refers to AT&T’s position in the FCC Non-Dominance proceeding. *Id.* Large and important differences exist between the proceedings cited by Dr. Taylor and the present one. Not the least of those differences is the fact that, in the market at issue in those proceedings, not one of the competitors had control over the bottleneck facilities necessary to obtain access to the customer. All competitors were competing on an equal footing. Dr. Mayo’s testimony in the D.P.U. 91-79 proceeding and AT&T’s position in the FCC Non-Dominance proceeding do not relate to the market at issue in this proceeding, the local exchange market, where the party seeking pricing flexibility has control over the bottleneck facility. AT&T requests that the Department establish a schedule under which it may file surrebuttal testimony so that Dr. Mayo may explain why the differences in the toll services markets and local exchange markets make the application of his testimony in D.P.U. 91-79 and AT&T’s position in the FCC Non-Dominance proceeding inapplicable to the present case.

In order to accommodate the filing of surrebuttal testimony, AT&T proposes the following schedule:

October 15	Open discovery period on Verizon's new evidence closes
October 25	AT&T Surrebuttal testimony
November 1	Discovery Period on AT&T Surrebuttal closes
November 12-16	Evidentiary hearings <sup>1</sup>
November 23	Record Requests due
December 7	Initial briefs due
December 21	Reply briefs due

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<sup>1</sup> The Department's current schedule calls for two weeks of hearings, October 22, 2001 through November 2, 2001. AT&T believes that one week will be sufficient. If, however, additional hearing time is required, the scheduled can be expanded accordingly. In addition, AT&T is aware of a potential conflict during the week of November 12 with the NARUC conference in Philadelphia. Adjustments to this schedule may be necessary.

**Conclusion.**

For the reasons stated, AT&T requests that the procedural schedule be amended to allow AT&T to file surrebuttal testimony in response to Dr. Taylor's misstatements as set forth above.

AT&T proposes the following schedule:

Respectfully submitted,

**AT&T COMMUNICATIONS OF  
NEW ENGLAND, INC.**

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October 3, 2001